

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL; DENYING MOTION FOR STAY OF PROCEEDINGS; DENYING MOTION TO TAKE JUDICIAL NOTICE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN A. MACGREGOR,)	No. C 13-2309 RMW (PR)
)	
Plaintiff,)	ORDER DENYING MOTION FOR
)	APPOINTMENT OF COUNSEL;
v.)	DENYING MOTION FOR STAY OF
)	PROCEEDINGS; DENYING
DR. MARTIN, et al.,)	MOTION TO TAKE JUDICIAL
)	NOTICE
Defendants.)	
)	(Docket Nos. 13, 15, 17 & 20)

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint against prison officials at San Quentin State Prison (“SPSP”), pursuant to 42 U.S.C. § 1983. On August 12, 2013, the court screened plaintiff’s complaint and dismissed claims against two of four named defendants. Notices of lawsuit and requests for waiver of service of summons were sent to the remaining defendants, Nurse Yan and Dr. Martin. The request for waivers were returned unexecuted because the defendants were “not at San Quentin.” (Docket Nos. 9 and 10.) On October 23, 2013, the court directed plaintiff to provide the court with accurate and current location information for defendants Nurse Yan and Dr. Martin within thirty days or plaintiff’s claims against these defendants would be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (Docket No. 12.) Plaintiff has filed a response to the court’s October 23, 2013 order. (Docket No. 23.) Plaintiff has also filed a motion for

1 appointment of counsel (docket no. 13), motions to stay these proceedings pending appointment
2 of counsel (docket nos. 15 and 20), and a motion to take judicial notice of adjudicated facts in
3 support of his motions for appointment of counsel and motions to stay proceedings, (docket no.
4 17).

5 In response to the court's order directing plaintiff to provide accurate and current location
6 information at which defendants may be served, plaintiff details the actions he has taken in an
7 attempt to obtain the full names and whereabouts of defendants. (Docket No. 23.) He has not
8 been able to obtain the current whereabouts of defendants. However, plaintiff asserts that
9 defendants "Dr. Martin and Nurse A. Yan were employed with San Quentin Neumiller Infirmary
10 between 2004 to approx 2008." (Id.) In the interest of justice, the court requests that the SQSP
11 Litigation Coordinator determine whether defendants Doctor Martin and Nurse A. Yan,
12 identified as having worked at SQSP Neumiller Infirmary between 2004 to approximately 2008,
13 were former employees of SQSP, and if so whether they are still employed with the California
14 Department of Corrections and Rehabilitation ("CDCR"), and to provide the court with current
15 employment addresses for the defendants. If they are former employees but no longer employed
16 with CDCR, the Litigation Coordinator is requested to provide forwarding addresses, or notice
17 that such information is not available.

18 Plaintiff's request for counsel (docket no. 13), is **DENIED** for want of exceptional
19 circumstances. See Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997); see also Lassiter v.
20 Dep't of Social Services, 452 U.S. 18, 25 (1981) (there is no constitutional right to counsel in a
21 civil case). Plaintiff's motions to stay these proceedings pending appointment of counsel (docket
22 nos. 15 and 20), and motion to take judicial notice of adjudicated facts in support of his motions
23 for appointment of counsel and motion to stay proceedings (docket No. 17) are also **DENIED**
24 accordingly.

25 //

26 //

27 //

1 **CONCLUSION**

2 1. Plaintiff's motion for appointment of counsel (docket no. 13), motions to stay
3 proceedings pending appointment of counsel (docket nos. 15 and 20), and motion to take judicial
4 notice of adjudicated facts in support of his motion for appointment of counsel and motion to
5 stay proceedings (docket no. 17) are **DENIED**.

6 2. The clerk of the court shall forward a copy of this order to the Litigation
7 Coordinator at **San Quentin State Prison, San Quentin, CA 94964**. The clerk shall also mail a
8 courtesy copy of this order to the Attorney General's Office at 455 Golden Gate Avenue, Suite
9 11000, San Francisco, CA 94102-7004.

10 3. In the interest of the justice, the Litigation Coordinator at **San Quentin State**
11 **Prison** is requested to provide to the court the current employment status for defendants Nurse
12 Yan and Dr. Martin, and any available forwarding addresses, or notice that such information is
13 not available, **within thirty (30) days** from the date this order is filed.

14 IT IS SO ORDERED.

15 DATED: Feb 18


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

KEVIN ANTHONY MACGREGOR,
Plaintiff,

Case Number: CV13-02309 RMW

CERTIFICATE OF SERVICE

v.

DOCTOR MARTIN MD et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 18, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kevin A. MacGregor V-94008
#11-147L
California State Prison - Solano
PO Box 4000
Vacaville, CA 95696

Dated: February 18, 2014

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk